



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 29, 1993

Mr. Peter K. Munson
Attorney for Denison Independent
School District
Munson, Munson, Pierce & Swanson, P.C.
P.O. Box 1949
Sherman, Texas 78009

OR93-360

Dear Mr. Munson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19992.

The Denison Independent School District (the "school district"), which you represent, has received a request for information relating to certain students. Specifically, the requestor seeks "a copy of all forms submitted by students relating to their interest in playing soccer in the 1993-94 school year as well as for all lists, compilations, or analyses of such forms for indication of student interest." You claim that the requested information is excepted from required public disclosure by sections 3(a)(14) and 14(e) of the Open Records Act.

Section 14(e) incorporates another source of law, specifically, the requirements of the Family Educational Rights and Privacy Act "FERPA", into the Open Records Act, providing:

Nothing in this Act shall be construed to require the release of information contained in education records of any educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93-380, codified as Title 20 U.S.C.A. Section 1232g, as amended.

V.T.C.S. art. 6252-17a, § 14(e); *see also* Open Records Decision No. 431 (1985) (copy enclosed).¹ FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a)...) of students without the written consent of their parents to any individual, agency, or organization.

20 U.S.C. § 1232g(b)(1). "Education records" are records which:

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

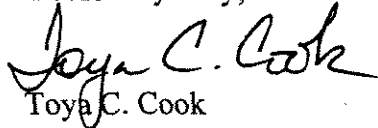
Id. § 1232g(a)(4)(A). Sections 3(a)(14) and 14(e) may not be used to withhold entire documents; the school district must delete information only to the extent "reasonable and necessary to avoid personally identifying a student" or one or both of his parents. Open Records Decision Nos. 332 (1982); 206 (1978). Thus, only information identifying or tending to identify students or their parents must be withheld from required public disclosure.

You have submitted to us for review a blank school district form titled "Commitment to Play Girls' Fast-Pitch Softball." We assume that this form is representative of the requested information. To complete the form, the student must indicate her commitment to play girls' fast-pitch softball in either the 9th, 10th, 11th, or 12th grade. Both the student and one of her parents must sign and date the form and indicate the student's grade level for the 1993-94 school year. We conclude that the student and parent signatures are governed by FERPA and may be released only in accordance with its provisions. The remaining information, however, does not identify or tend to identify students or their parents and must be released.

¹In conjunction with your claim that section 14(e) excepts the requested information from required public disclosure, your refer us to section 3(a)(14) of the Open Records Act. Section 3(a)(14) excepts from required public disclosure "student records at educational institutions funded wholly, or in part, by state revenue" V.T.C.S. art. 6252-17a, § 3(a)(14). The phrase "student records" in section 3(a)(14) has generally been construed to be the equivalent of "education records." Thus, our resolution of FERPA in this instance also resolves the application of section 3(a)(14) to the requested information. *See generally* Attorney General Opinion H-447 (1974); Open Records Decision Nos. 539 (1990); 477 (1987); 332 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Toya C. Cook". The signature is fluid and cursive, with the first name "Toya" being more prominent.

Toya C. Cook
Assistant Attorney General
Opinion Committee

TCC/GCK/jmn

Enclosure: Open Records Decision No. 431

Ref.: ID# 19992
ID# 20051
ID# 20385